

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL (ST) NO. 7924 OF 2020
ALONGWITH
INTERIM APPLICATION NO. 93 OF 2021
IN
CRIMINAL APPEAL (ST) NO. 7924 OF 2020**

Sumera Abdul Ali

...Appellant/Applicant

vs.

Umesh Madhukar Thakur and Ors.

...Respondents

Mr. Karan Kadam a/w Mr. H. S. Khokhawala i/by M/s. Nankani and Associates - Advocate for the Appellant

Ms. Neha Maru i/by Ms. Saili N. D. - Advocate for the Respondent

Ms. Sharmila S. Kaushik – APP for the State.

CORAM : S. M. MODAK, J.

DATE : 22nd DECEMBER, 2022

P. C. :-

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1. Heard learned Advocate for the Applicant/first informant and learned Advocate for the Respondent Nos. 1 to 4/accused and learned APP Ms. Kaushik for the State.

2. The Court of JMFC Alibag as per judgment dated 28/03/2011 was pleased to acquit all the Respondents for the offence punishable under Sections 379, 323, 427 r/w 34 of the

Indian Penal Code. The first informant has given evidence before the trial Court. The State has preferred an appeal before the Court of Sessions, it was dismissed on 21/01/2019. Now first informant wants to challenge the correctness of the judgment of the First Appellate Court.

3. There is delay of 623 days in preferring an appeal. During the arguments, it is submitted that even impugned order came to be passed on 21/01/2019, the Hon'ble Supreme Court Covid guidelines came in force on 15/03/2020 and they were in operation even till 03/12/2020 (date of filing of this application). According to him, the period from 15/03/2020 upto 03/12/2020 needs to be excluded while calculating the total period of delay for 623 days and according to him it comes half of that. The delay is opposed strongly and it is submitted that the Appellant is social worker and she must be conscious of her legal rights.

4. It is true that in the appeal the witnesses including first informant have no role to play unless they decides to participate. The applicant was outside India for the various periods prescribed in the table given in para no. 4 of the application. I think that the applicant has given satisfactory reason for condonation of delay. A

copy of the passport is also annexed.

5. Hence application deserves to be allowed. Hence it is allowed and application is disposed of.

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6. Heard learned advocate for the Appellant. This is an appeal filed by the first informant. Even though leave is not required, the parties need to be heard on the point of admission. Learned advocate waives notice for the Respondent Nos. 1 to 4. Copy be supplied to the learned advocate for the Respondent Nos. 1 to 4.

7. Matter be kept on **19th January, 2023** under the caption for 'admission'.

8. Learned Advocate for the Respondents may file note of appearance. Learned APP also waives notice. Copy also be supplied to her. If learned Advocate for the Respondents wants to file a reply, she is at liberty to do the same and serve the Appellant in advance.

[S. M. MODAK, J.]